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HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			AKLILU, KIRUBEL	
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			2614	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/873,944		COPEMAN ET AL.	
	Examiner		Art Unit	
	Kirubel Aklilu		2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/12/5/01 and 9/16/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11-14, 16, 20-25, and 27-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Hite et al. (5,774,170).

1. As for **Claim 1**, Hite et al. teach a system for targeting promotions to at least one network device (see Abstract, “This invention enhances television (and radio) advertising by targeting, delivering and displaying electronic advertising messages (commercials) within specified programming in one or more pre-determined households . . . ”), comprising:

a scheduler (see fig. 1 and fig. 2 unit 100 Ad Administration Facility, col. 8 line 64 – col. 9 line 15 “The Ad Administration Facility 100 is where customers, commercials, and programs are analyzed and categorized and the results stored in databases. The information from these databases is used to construct CID codes”) which develops schedules (see col. 5 lines 45-50 “One or more commercial identifier codes (CID) are

transmitted to and recorded by the RD in advance of the commercial broadcast. As described below, these codes will be used to “tell” the display which upcoming commercials to play and which to ignore”. The CID codes are interpreted to be schedules that tell the receiver which up coming commercials to play and which to ignore.) for the display of promotions on the network device, the schedules being generated by matching membership criteria with viewership profiles of the network device (see col. 8 lines 18-38 “The appropriate CIDs for each viewer are selected by a marketing organization which accumulates data on viewers to determine the commercials most appropriate to their **individual needs and wants**. These CIDs are then transmitted individually to each viewing sites and stored there for use by the CP. Alternatively, an algorithm can be devised and downloaded to the display site . . . That algorithm is created by the advertisement administrator and/or marketing organization which provides the commercials. That algorithm changes from time to time based on the nature of the commercials and the **demographics of the viewer**. The algorithm responds to information provided directly or indirectly by the viewer. This is a dynamic process. As the situation of the viewers changes, the CIDs appropriate to those viewers also changes. For example, as children are born, certain products and services are of interest. As the children grow and mature, products and services previously interesting are replaced with those appropriate for older children.”. The data collected from marketing organization is interpreted to be the viewership profile and the demography of the users is interpreted to be a membership criteria. Since appropriate CIDs for each viewer are selected by the marketing organizations using customers viewership profile

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and demographical information in order to determine commercials most appropriate to the viewer's individual wants and needs, it is interpreted that the CIDs are formed by matching the viewers membership criteria, such as demography, with viewers viewership profiles (user's wants and needs.) and;

a promotion agent (see fig. 5 unit 438 Commercial Processor) that receives a promotion schedule from the scheduler, wherein the promotion agent processes the schedule information for the display of promotions (see col. 6 lines 10-39 "A Commercial Processor (CP) at the display sure would be programmed by an algorithm transmitted to the RD prior to the CID transmission to look for and analyze the CID in each incoming commercial. . . .If there is a match between the CID in the commercial and the CID in the RD, the commercial is displayed . . .When the CIDs do not match, the commercial is ignored and not displayed. ").

2. As for **Claim 2**, Hite et al. teach the system of claim 1, further comprising a bulk manager server (see fig. 2 unit 116 Preemptable Commercial Database, col. 9 lines 50-52 "Information on commercials which can be preempted is stored in a Preemptable Commercial Data base 116").

3. As for **Claim 3**, Hite et al. teach the bulk manager server stores promotions to be scheduled for display on the network device (see fig. 2 unit 116 Preemptable Commercial Database, col. 9 lines 47-52 "Commercials suitable to the needs and wants of those viewing or hearing programming are also categorized and an appropriate CID

code is generated and appended to the commercial. Information on commercials which can be preempted is stored in a Preemptable Commercial Data base 116).

4. As for **Claim 4**, Hite et al. teaches the bulk manager server downloads the promotions to a bulk manager agent (see col. 7 lines 1-14 "Commercials are subsequently transmitted to the in-home storage device with sufficient capacity to hold one or more commercials prior to display. . .Attached to each commercials are codes indicating the conditions and rules required to display the commercial . . .The commercial transmitted that is found to match is stored in the storage at the display site. Note that the CIDs and display rules would be stored in a storage known as an Ad Queue in the commercial processor.". The Ad Queue is interpreted as a bulk manager agent where commercials that are found suitable for display are stored at the display site prior to being displayed. Since these commercials were initially stored in the Preemptable Commercial Database (which is interpreted to be the bulk manager server), and are transmitted to the display site after being processed with CID codes (see col. 6 line 66- col. 7 line 1 "CID codes chosen for a particular display site (consumer) are transmitted to and stored in an in-home storage at the display site"), it is interpreted that the bulk manager server (Preemptable Commercial Database) downloads promotions to a bulk manager agent (Ad Queue).).

5. As for **Claim 5**, Hite et al. teach the scheduler sends schedule information to the promotion agent (see col. 5 lines 46-49 "One or more commercial identifier codes (CID)

are transmitted to and recorded by the RD in advance of the commercial broadcast . . . these codes will 'tell' the display which upcoming commercials to play and which to ignore" and col. 6 lines 10-39 "A Commercial Processor (CP) at the display site would be programmed by an algorithm transmitted to the RD prior to the CID transmission to look for and analyze the CID in each incoming commercial . . . If there is a match between the CID in the commercial and the CID in the RD, the commercial is displayed") which processes the schedule information and transmits the processed schedule information to the bulk manager agent (see col. 7 lines 11-14 "The commercials transmitted that is found to match is stored in the storage at the display site. Note that the CIDs and display rules would be stored in a storage known as an Ad Queue in the commercial processor.". The CID (schedules) are made by the Ad Administration facility (Scheduler) and are transmitted to the commercial processor (promotion agent) which compares the stored CID with the CID of the transmitted commercial and stores the commercial that are found to match in the Ad Queue (bulk manager agent).).

6. As for **Claim 6**, Hite et al. teach the schedule information includes a time schedule for displaying the promotions (see col. 7 lines 7-9 "Attached to each commercial are codes indicating the conditions and rules required to display the commercial, e.g., date, day-part, network, program context, etc.").

7. As for **Claim 7**, Hite et al. teaches the schedule information includes specified promotions for displaying the promotions (see col. 4 lines 34-40 "A context code could

be appended to the commercial's CID code. The context code is compared with program identification codes appended to the program signals. The commercial is displayed if it is in a specific channel or network show. For example, skiing equipment commercials would be shown during downhill racing competition." The CIDs indicate a specific commercials type (a commercial on skiing equipment) is displayed during a specific type of programming (down hill racing competition). Therefore, it is interpreted that the schedule information (CID) include specified promotions for displaying the promotions.

8. As for **Claim 8**, Hite et al. teach the schedule information includes locations for displaying the promotions (see col. 8 lines 18-23 "The appropriate CIDs for each viewer are selected by a marketing organization which accumulates data on viewers to determine the commercials most appropriate to their individual needs and wants. These CIDs are then transmitted individually to each viewing sit an stored there for use by the CP.". Since CIDs are transmitted individually to each viewing site, it is inherent that the schedule information (CID) includes the location address of each viewing site.).

9. As for **Claim 9**, Hite et al. teach a bulk manager server that retrieves the promotions from a database (see col. 10 lines 33-38 "The Preemptable Commercial Database 116 contains lists of commercials which can be preempted with the above described processed commercials. This list is supplied by agencies or organizations which have sold the carriage of the commercial under the condition that may be preempted under

certain circumstances.” The agencies or organizations that supply the list of commercials contained in the Preemptable Commercial Database are interpreted to be the database from which the bulk manager server (Preemptable Commercial Database) retrieves the promotions from.).

10. As for **Claim 11**, Hite et al. teach the scheduler instructs the bulk manager server to retrieve the promotions from the database and send the promotions to designated network devices (see col. 8 line 65 – col. 9 line 15 “The Ad Administration Facility 100 is where customers, commercials, and programs are analyzed and categorized and the results stored in databases. The information from these databases is used to construct CID codes. Additionally, commercials are received from the agencies that created them and processed as necessary for use in the system. These processed commercials and CID codes are conveyed to the Ad Transmission Facility 200 via an electrical and/or optical link 101.” And col. 9 lines 43-57 “The Ad Administration Facility 100 is where the characteristics of those viewing or hearing the commercials are analyzed and categorized and stored in Customer Database 128. Commercials suitable to the needs and wants of those viewing or hearing programming are also categorized and an appropriate CID code is generated and appended to the commercial. Information on commercials which can be preempted is stored in a Preemptable Commercial Data Base 116.” And col. 10 lines 33-53 “The Preemptable Commercial Database 116 contains lists of commercials which can be preempted with the above described processed commercials. This list is supplied by agencies or organizations which have

sold the carriage of the commercial under the condition that it may be preempted under certain circumstances.”). The Ad Administration Facility (scheduler) is where the characteristics of the viewers are analyzed along with what commercials are most appropriate to the viewers. The data that is provided by the agencies or organizations (Databases) is needed by the Ad Administration Facility (Scheduler) in order to analyze and categorize appropriate commercials to the viewers. Therefore, it is interpreted that the Ad Administration Facility instructs the bulk manager server (Preemptable Commercial Database) to retrieve the promotions from the database (list of commercials provided by agencies or organizations) and send the promotions to designated network devices by conveying the processed commercial to Ad Transmission Facility 200.

11. As for **Claim 12**, Hite et al. teach the promotions are displayed at a designated time (see col. 7 lines 7-9 “Attached to each commercial are codes indicating the conditions and rules required to display the commercial, e.g., **date**, **day-part**, network, program context, etc.”).

12. As for **Claim 13**, Hite et al. teach the promotions are displayed when the viewers watch designated shows (see col. 7 lines 7-9 “Attached to each commercial are codes indicating the conditions and rules required to display the commercial, e.g., date, day-part, network, **program context**, etc.” and col. 4 lines 34-40 “A context code could be appended to the commercial’s CID code. The context code is compared with program

identification codes appended to the program signals. The commercial is displayed if it is in a specific channel or network or show. For example, skiing equipment commercials would be shown during a skiing down hill racing competition.”).

13. As for **Claim 14**, Hite et al. teach the membership criteria are based on demographics of the viewers who use the network devices (see col. 8 lines 18-38 “The appropriate CIDs for each viewer are selected by a marketing organization which accumulates data on viewers to determine the commercials most appropriate to their individual taste. . .The algorithm changes from time to time based on the nature of the commercials and the demographics of the viewers”. The data on viewers accumulated by the agencies is interpreted to be the membership criteria.).

14. As for **Claim 16**, Hite et al. teach the membership criteria are based on channel and promotion history data (see col. 10 lines 54-65 “The Customer Database 128 contains lists of consumers who would be viewing or listening to programming and would be served by commercials which match their needs and wants . . .This list is supplied by agencies which have gathered data on the consumers and have created algorithms for determining which commercials are most appropriate for those customers. The combination of the algorithms and the data yield the Consumer CID codes. The specific nature of the data collected and the algorithms varies with the creativity and resources of the advertising agencies using this invention”. It is interpreted that the agencies using the history of the channels and promotions watched

by the viewers in order to create the algorithms and data that yield the Consumer CIDs.).

15. As for **Claim 20**, Hite et al. teach a method for targeting promotions to at least one network device (see Abstract, "This invention enhances television (and radio) advertising by targeting, delivering and displaying electronic advertising messages (commercials) within specified programming in one or more pre-determined households . . . "), comprising the steps of:

generating viewership profiles of the network device (see col. 8 lines 18-38 "The appropriate CIDs for each viewer are selected by a marketing organization which accumulates data on viewers to determine the commercials most appropriate to their individual needs and wants. These CIDs are then transmitted individually to each viewing sites and stored there for use by the CP. Alternatively, an algorithm can be devised and downloaded to the display site . . . That algorithm is created by the advertisement administrator and/or marketing organization which provides the commercials. That algorithm changes from time to time based on the nature of the commercials and the demographics of the viewer. The algorithm responds to information provided directly or indirectly by the viewer. This is a dynamic process. As the situation of the viewers changes, the CIDs appropriate to those viewers also changes. For example, as children are born, certain products and services are of interest. As the children grow and mature, products and services previously interesting

are replaced with those appropriate for older children.”. The data collected by the agencies on the viewers wants and needs is interpreted to be viewership profile.);

developing a schedule based on matching the viewership profiles with membership criteria (see fig. 1 and fig. 2 unit 100 Ad Administration Facility, col. 8 line 64 – col. 9 line 15 “The Ad Administration Facility 100 is where customers, commercials, and programs are analyzed and categorized and the results stored in databases. The information from these databases is used to construct CID codes” and see col. 5 lines 45-50 “One or more commercial identifier codes (CID) are transmitted to and recorded by the RD in advance of the commercial broadcast. As described below, these codes will be used to “tell” the display which upcoming commercials to play and which to ignore”. The CID codes are interpreted to be schedules that contain information about when and under what conditions a commercial is displayed to a specific individual or groups of individuals. It is also interpreted that the CIDs are constructed by matching the viewership profiles (users wants and needs) with membership criteria.); and

sending promotions based on the schedule to selected network devices (see col. 5 lines 45-50 “One or more commercial identifier codes (CID) are transmitted to and recorded by the RD in advance of the commercial broadcast. As described below, these codes will be used to “tell” the display which upcoming commercials to play and which to ignore”).

16. As for **Claim 21**, Hite et al. teach the step of storing the promotions in a bulk manager server (see fig. 2 unit 116 Preemptable Commercial Database, col. 9 lines 47-

52 “Commercials suitable to the needs and wants of those viewing or hearing programming are also categorized and an appropriate CID code is generated and appended to the commercial. Information on commercials which can be preempted is stored in a Preemptable Commercial Data base 116).

17. As for **Claim 22**, Hite et al. teach the step of downloading the promotions to a bulk manager agent (see col. 7 lines 1-14 “Commercials are subsequently transmitted to the in-home storage device with sufficient capacity to hold one or more commercials prior to display. . .Attached to each commercials are codes indicating the conditions and rules required to display the commercial . . .The commercial transmitted that is found to match is stored in the storage at the display site. Note that the CIDs and display rules would be stored in a storage known as an Ad Queue in the commercial processor.”. The Ad Queue is interpreted as a bulk manager agent where commercials that are found suitable for display are stored at the display site prior to being displayed. Since these commercials were initially stored in the Preemptable Commercial Database (which is interpreted to be the bulk manager server), and are transmitted to the display site after being processed with CID codes (see col. 6 line 66- col. 7 line 1 “CID codes chosen for a particular display site (consumer) are transmitted to and stored in an in-home storage at the display site”), it is interpreted that the bulk manager server (Preemptable Commercial Database) downloads promotions to a bulk manager agent (Ad Queue).).

18. As for **Claim 23**, Hite et al. teach the step of instructing the bulk manager agent to display selected promotions (see col. 7 lines 7-14 "Attached to each commercial are codes indicating the conditions and rules required to display the commercial, e.g., date, day-part, network, program context, etc. The codes of the commercials transmitted are first compared to the codes previously stored. The commercial transmitted that is found to match is stored in the storage at the display site. Note that the CIDs and display rules would be stored in a storage known as an Ad Queue in the commercial processor." And col. 7 lines 24-30 "The commercial processor in the home would look for the CID in each incoming commercial at a break during a broadcast program. If there was a CID at a break, the processor would apply the display rules for the stored, addressable ads. If there was an ad to display, it would substitute the addressed ad for the default ad, and eliminate it from the ad queue as necessary." The Ad Queue is interpreted to be a bulk manager agent. It stores commercials that are going to be displayed. When the commercial processor decides to display a commercial that is stored in the Ad Queue, it is interpreted that the processor instructs the Ad Queue to send the stored commercial to the display).

19. As for **Claim 24**, Hite et al. teach the step of retrieving the promotions from a database (see col. 10 lines 33-38 "The Preemptable Commercial Database 116 contains lists of commercials which can be preempted with the above described processed commercials. This list is supplied by agencies or organizations which have sold the carriage of the commercial under the condition that may be preempted under

certain circumstances.” The agencies or organizations that supply the list of commercials contained in the Preemptable Commercial Database are interpreted to be the database from which the bulk manager server (Preemptable Commercial Database) retrieves the promotions from.).

20. As for **Claim 25**, Hite et al. teach a bulk manager server retrieves the promotions (see col. 10 lines 33-38 “The Preemptable Commercial Database 116 contains lists of commercials which can be preempted with the above described processed commercials. This list is supplied by agencies or organizations which have sold the carriage of the commercial under the condition that may be preempted under certain circumstances.” The agencies or organizations that supply the list of commercials contained in the Preemptable Commercial Database are interpreted to be the database from which the bulk manager server (Preemptable Commercial Database) retrieves the promotions from.).

21. As for **Claim 27**, Hite et al. teach the step of displaying selected promotions at a designated time on selected network devices (see col. 7 lines 7-9 “Attached to each commercial are codes indicating the conditions and rules required to display the commercial, e.g., date, day-part, network, program context, etc.”).

22. As for **Claim 28**, Hite et al. teach the step of displaying selected promotions when designated programs are watched by the viewers (see col. 7 lines 7-9 “Attached to each

commercial are codes indicating the conditions and rules required to display the commercial, e.g., date, day-part, network, **program context**, etc.” and col. 4 lines 34-40 “A context code could be appended to the commercial’s CID code. The context code is compared with program identification codes appended to the program signals. The commercial is displayed if it is in a specific channel or network or show. For example, skiing equipment commercials would be shown during a skiing down hill racing competition.”).

23. As for **Claim 29**, Hite et al. teach the program includes a trigger in the broadcast (see col. 4 lines 34-40 “A context code could be appended to the commercial’s CID code. The context code is compared with program identification codes appended to the program signals. The commercial is displayed if it is in a specific channel or network or show. For example, skiing equipment commercials would be shown during a skiing down hill racing competition.”. The program identification codes present in the program signals are interpreted to be triggers because these program identification codes cause (trigger) the type of commercial to be displayed.)

24. As for **Claim 30**, Hite et al. teach the step of displaying promotions based on viewer behavior (see col. 4 lines 52-61 “A series of viewer reaction codes can be included to cause additional relevant commercials to be presented in reaction to a viewer’s response to questions or other viewer interaction. The relevant commercials could be for more detailed information about the same product or service. Alternatively, they

could be for products or services, which are likely to be of interest to the viewer based on the viewer's responses. For example, a viewer who requests more information about children's aspirin may also be offered a subsequent commercial on children's chewable vitamins").

25. As for **Claim 31**, Hite et al. teach the step of retrieving the promotions across a unicast medium (see col. 6 line 60 – col. 7 line 14 “an individually addressable digital recording device (RD) with a unique address is installed at the display site in the television receiver, VCR, display device set-top-box or modular decoder associated with the video provider (cable, DBS, telephone, etc.). CID codes chosen for a particular display site (consumer) are transmitted to and stored in an in-home storage at the display site. Commercials are subsequently transmitted to the in-home storage device with sufficient capacity to hold one or more commercials prior to display.” Since commercials can be targeted specifically to a single receiver, it is interpreted that the targeted commercials are transmitted across a unicast system.).

26. As for **Claim 32**, Hite et al. teach the step of developing includes matching the viewership profiles with the membership criteria to generate promotion groups (see col. 8 lines 18-38 “The appropriate CIDs for each viewer are selected by a marketing organization which accumulates data on viewers to determine the commercials most appropriate to their individual needs and wants. These CIDs are then transmitted individually to each viewing sites and stored there for use by the CP. Alternatively, an

algorithm can be devised and downloaded to the display site . . . That algorithm is created by the advertisement administrator and/or marketing organization which provides the commercials. That algorithm changes from time to time based on the nature of the commercials and the demographics of the viewer. The algorithm responds to information provided directly or indirectly by the viewer. This is a dynamic process. As the situation of the viewers changes, the CIDs appropriate to those viewers also changes. For example, as children are born, certain products and services are of interest. As the children grow and mature, products and services previously interesting are replaced with those appropriate for older children.” The data collected from marketing organization about the viewers wants and needs is interpreted to be the viewership profile and the demography of the users is interpreted to be a membership criteria. It is interpreted that the agencies determine commercials most appropriate to the viewers by matching the membership criteria (demography) with viewership profile (data collected by agencies on viewers wants and needs) is used in creating the CIDs that will be transmitted to individual set-top-boxes or promotions groups (groups of set-top boxes under a single household)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10,15, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hite et al. (U.S. Patent # 5,774,170).

27. As for **Claims 10 and 26**, Hite et al. do not expressly teach the promotions are stored in a cache. However, Hite et al. do teach the promotions are stored in a storage device at the display location (see col. 7 lines 11-13 "The commercial transmitted that is found to match is stored in the storage at the display site." And fig. 5 unit 456 Optional Video Storage Device, col. 14 lines 28-32 "The Commercial Processor 438 can cause commercial signals to be stored or played back from the Optional Video Storage Device 456 by signals conveyed by electrical and/or optical connection 462 to the Optional Video Storage Device 456"). However, Official Notice (MPEP § 2144.03) is taken that both the concepts and advantages of using cache are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have modified the Video Storage Device taught in Hite to be cache memory for storing the commercials. One of ordinary skill in the art at the time the invention was made would have been motivated to use cache memory in order to access the stored commercials much faster as opposed to if the commercials were stored in a non-cache type memory.

28. As for **Claim 15**, Hite et al. do not expressly teach the membership criteria are based on geographic locations of the viewers who use the network device. However, Hite et al. do teach the data on viewers collected by the agencies can be vast and

creative (see col. 10 lines 54-65 "The Customer Database 128 contains lists of consumers who would be viewing or listening to programming and would be served by commercials which match their needs and wants . . . This list is supplied by agencies which have gathered data on the consumers and have created algorithms for determining which commercials are most appropriate for those customers . . . the specific nature of the data collected and the algorithms carries with the creativity and resources of the advertising agencies using this invention"). However, Official Notice (MPEP § 2144.03) is taken that both the concepts and advantages of having the membership criteria be based on geographic locations are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have modified the teaching of Hite et al. to have the membership criteria be based on geographic locations. One of ordinary skill in the art at the time the invention was made would have been motivated to base the membership criteria on geographic locations in order to target specific promotions only for viewers that are in a specific geographical location.

Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hite et al. (U.S. Patent # 5,774,170) in view of Hendricks et al. (U.S. Patent # 5,600,364).

29. As for **Claim 17**, Hite et al. do not expressly teach the scheduler schedules the promotions for delivery to specific promotion groups. However, Hendricks et al. teach a system for delivering targeted commercial to television network subscribers, wherein

commercials are scheduled for delivery to specific promotion groups (see Hendricks et al. fig. 4 unit 220 Set Top Terminals, col. 31 lines 53-60 "using a subscriber's set top terminal identification number, the network controller CPU 224 can access and process information pertaining to that subscriber from any of the above described database files. In configurations where multiple set top terminals 220 are allocated to a single customer (or household), a unique subscriber identification number may be added to the database 226 to group the set top terminals 220 by customer."). In light of the teaching of Hendricks et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Hite et al. to have the promotions scheduled for delivery to specific promotion groups. One of ordinary skill in the art at the time the invention was made would have been motivated to use a specific promotion group, as opposed to individual set top boxes, if multiple set top boxes are assigned to a single user/household and the same targeted promotions need to be delivered to all of the set top boxes under the household.

30. As for **Claim 18**, the modified Hite et al. in view of Hendricks et al. teaches the promotions groups are collections of network devices (see Hendricks, fig. 4 unit 220 set top terminals, col. 31 lines 56-59 "In configurations where multiple set top terminals 220 are allocated to a single customer (or household), a unique subscriber identification number may be added to the database 226 to **group the set top terminals 220** by customer.").

31. As for **Claim 19**, the modified Hite et al. in view of Hendricks et al. teaches the promotion groups are based on matching the membership criteria to the viewership profiles (see Hite, col. 8 lines 18-38 "The appropriate CIDs for each viewer are selected by a marketing organization which accumulates data on viewers to determine the commercials most appropriate to their individual needs and wants. These CIDs are then transmitted individually to each viewing sites and stored there for use by the CP. Alternatively, an algorithm can be devised and downloaded to the display site . . . That algorithm is created by the advertisement administrator and/or marketing organization which provides the commercials. That algorithm changes from time to time based on the nature of the commercials and the demographics of the viewer. The algorithm responds to information provided directly or indirectly by the viewer. This is a dynamic process. As the situation of the viewers changes, the CIDs appropriate to those viewers also changes. For example, as children are born, certain products and services are of interest. As the children grow and mature, products and services previously interesting are replaced with those appropriate for older children.". The data collected from marketing organization about the viewers wants and needs is interpreted to be the viewership profile and the demography of the users is interpreted to be a membership criteria. It is interpreted that the agencies determine commercials most appropriate to the viewers by matching the membership criteria (demography) with viewership profile (data collected by agencies on viewers wants and needs) is used in creating the CIDs that will be transmitted to individual set-top-boxes or promotions groups (groups of set-top boxes under a single household)).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirubel Aklilu whose telephone number is 571-272-7342. The examiner can normally be reached on 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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PRIMARY EXAMINER